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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/676,753	10/01/2003	James R. Keene	5-919	7924
49884	7590	11/07/2005		
JUSTIN S. RERKO & ASSOCIATES, L.L.C. 19836 ELLSWORTH DR. STRONGSVILLE, OH 44149			EXAMINER KATCHEVES, BASIL S	
			ART UNIT 3635	PAPER NUMBER

DATE MAILED: 11/07/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/676,753	<b>Applicant(s)</b> KEENE ET AL.	
	<b>Examiner</b> Basil Katcheves	<b>Art Unit</b> 3635	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 20 June 2005.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-27 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 12-15 is/are allowed.
- 6) ☒ Claim(s) 1-11, 16-27 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

***Claim Rejections - 35 USC § 102***

Claims 1-4, 9, 11, 16-19, 23 and 25-27 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 5,099,627 to Coulton et al. as in the previous office action.

Regarding claims 1, 16, 26 and 27, Coulton discloses a mat comprised of a flexible semi rigid mat of polymeric material (column 3, lines 30-32) bonded to a barrier (20) which allows vapor to pass but substantially prevents water from passing through.

Regarding claim 2, 9, 17 and 23, Coulton discloses the filaments as randomly twisted (fig. 3, column 3, line 33) and connected by heated means (column 3, line 65).

Regarding claims 3 and 18, Coulton discloses the mat as being made of a polymer and the filaments are connected at intersections (fig. 3). Applicant should note that extrusion is a process limitation. In a structure claim, weight is given to the article, not the process.

Regarding claims 4 and 19, Coulton discloses the mat as being made of a polyamide (column 3, line 64).

Regarding claims 11 and 25, Coulton discloses the mat and sheet as having a longer length than width (figs. 1 & 3).

***Claim Rejections - 35 USC § 103***

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Claims 5-7, 10, 20, 21 and 24, are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 5,099,627 to Coulton et al. as in the previous office action.

Regarding claims 5-7, 10, 20, 21 and 24, Coulton discloses the basic claim structure of the instant application but does not disclose specific dimensions. Applicant fails to show criticality for specifically claimed dimensions, therefore it would have been an obvious design choice to use the dimensions such as specified in these claims.

Claims 8 and 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 5,099,627 to Coulton et al. in view of U.S. Patent No. 5,224,315 to Winter, IV.

Regarding claims 8 and 22, Coulton does not disclose the use of an anti-fungal agent. Winter discloses the use of an anti-fungal agent (title) in a building panel. It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Coulton by using the anti-fungal agent as disclosed by Winter, in order to prevent bacteria or the like from growing in an enclosed area.

***Allowable Subject Matter***

Claims 12-15 are allowed.

### ***Response to Arguments***

Applicant's arguments filed 6/20/05 have been fully considered but they are not persuasive. Applicant argues that the barrier material is not bonded to the mat. Applicant also admits that "bonding" means "to cause to adhere" and the word "adhere". The applicant also lists "to hold fast" as one of the definitions of "adhere" (page 1 of applicants response). Applicant should note that the prior (Coulton) art shows the mat and barrier as "holding fast" together. Obviously, since Coulton deals with an inclined roof structure, if these two components do not "hold fast" together, the invention would slide off the roof and be rendered useless. It is clear from the figures of Coulton that these two components must hold fast and they do, as gravity constantly pushes against them.

### ***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

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the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Basil Katcheves whose telephone number is (571) 272-6846. The examiner can normally be reached on Monday-Friday from 7:30 am to 4:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Carl Friedman, can be reached at (571) 272-6842.

BK

  
Basil Katcheves

11/3/05

Primary Examiner